

§ 4022.24

29 CFR Ch. XL (7-1-11 Edition)

a termination date in July 2008. At the bankruptcy filing date:

(A) Participant A was age 64 and receiving a benefit from the plan in the form of a 10-year certain-and-continuous annuity, with 4 years remaining in the certain period.

(B) Participant B was age 60 and 6 months and was still working. She began receiving a benefit from the plan in the form of a 50% joint-and-survivor annuity when she turned 61 in January 2008. Her spouse was the same age as she.

(C) Participant C was age 60 and was receiving a \$3,000/month benefit from the plan in the form of a 50% joint-and-survivor annuity, with his spouse, age 58, as his beneficiary. Participant C he died in February 2008 and in March 2008 his spouse began receiving a 50% survivor annuity of \$1,500/month.

(D) Participant D was age 59 and was still working; he began receiving a straight-life annuity from the PBGC in July 2010 when he was 62 years old.

(i) *Conclusions.* In accordance with § 4022.22(b)(2), PBGC computes the maximum guaranteeable monthly benefit for Participants A, B, and D and for the spouse of Participant C based on the \$4,125.00 amount determined under § 4022.22(a)(2) for 2007. (The gross-income-based limitation in § 4022.22(a)(1) does not apply to any of these participants.)

(A) Participant A's maximum guaranteeable monthly benefit is \$3,759.53 [$\$4,125.00 \times .93$ (7% reduction for a benefit starting at age 64) $\times .98$ (2% reduction for a certain-and-continuous annuity with 4 years remaining in the certain period)].

(B) Participant B's maximum guaranteeable monthly benefit is \$2,673.00 [$\$4,125.00 \times .72$ (28% reduction for a benefit starting at age 61) $\times .90$ (10% reduction due to the 50% joint-and-survivor feature)].

(C) Participant C's spouse's maximum guaranteeable monthly benefit is \$2,351.25 [$\$4,125.00 \times .57$ (43% reduction for a benefit starting at age 58; no reduction for the form of benefit because the spouse's survivor benefit is a straight-life annuity)]. Because that amount exceeds the spouse's \$1,500 monthly survivor benefit, the spouse's benefit is not reduced by the maximum guaranteeable benefit limitation.

(D) Participant D's maximum guaranteeable monthly benefit is \$3,258.75 [$\$4,125.00 \times .79$ (21% reduction for a benefit starting at age 62)].

§ 4022.24 Benefit increases.

(a) *Scope.* This section applies:

(1) To all benefit increases, as defined in § 4022.2, payable with respect to a participant other than a substantial owner, which have been in effect for

less than five years preceding the termination date; and

(2) To all benefit increases payable with respect to a substantial owner, which have been in effect for less than 30 years preceding the termination date.

(b) *General rule.* Benefit increases described in paragraph (a) of this section shall be guaranteed only to the extent provided in § 4022.25 with respect to a participant other than a substantial owner and in § 4022.26 with respect to a participant who is a substantial owner.

(c) *Computation of guaranteeable benefit increases.* Except as provided in paragraph (d) of this section pertaining to multiple benefit increases, the amount of a guaranteeable benefit increase shall be the amount, if any, by which the monthly benefit calculated pursuant to paragraph (c)(1) of this section (the monthly benefit provided under the terms of the plan as of the termination date, as limited by § 4022.22) exceeds the monthly benefit calculated pursuant to paragraph (c)(4) of this section (the monthly benefit which would have been payable on the termination date if the benefit provided subsequent to the increase were equivalent, as of the date of the increase, to the benefit provided prior to the increase).

(1) Determine the amount of the monthly benefit payable on the termination date (or, in the case of a deferred benefit, the monthly benefit which will become payable thereafter) under the terms of the plan subsequent to the increase, using service credited to the participant as of the termination date, that is guaranteeable pursuant to § 4022.22;

(2) Determine, as of the date of the benefit increase, in accordance with the provisions of § 4022.23, the factors which would be used to calculate the monthly maximum benefit guaranteeable (i) under the terms of the plan prior to the increase and (ii) under the terms of the plan subsequent to the increase. However, when the benefit referred to in paragraph (c)(2)(ii) of this section is a joint and

Pension Benefit Guaranty Corporation

§ 4022.25

survivor benefit deferred as of the termination date and there is no beneficiary on that date, the factors computed in paragraph (c)(2)(ii) of this section shall be determined as if the benefit were payable only to the participant. Each set of factors determined under this paragraph shall be stated in the manner set forth in § 4022.23(b)(1);

(3) Multiply the monthly benefit which would have been payable (or, in the case of a deferred benefit, would have become payable) under the terms of the plan prior to the increase based on service credited to the participant as of the termination date by a fraction, the numerator of which is the product of the factors computed pursuant to paragraph (c)(2)(ii) of this section and the denominator of which is the product of the factors computed pursuant to paragraph (c)(2)(i) of this section.

(4) Calculate the amount of the monthly benefit which would be payable on the termination date if the monthly benefit computed in paragraph (c)(3) of this section had been payable commencing on the date of the benefit increase (or, in the case of a deferred benefit, would have become payable thereafter). In the case of a benefit which does not become payable until subsequent to the termination date, the amount of the monthly benefit determined pursuant to this paragraph is the same as the amount of the monthly benefit calculated pursuant to paragraph (c)(3) of this section.

(d) *Multiple benefit increases.* (1) Where there has been more than one benefit increase described in paragraph (a) of this section, the amounts of guaranteeable benefit increases shall be calculated beginning with the earliest increase, and each such amount (except for the amount resulting from the final benefit increase) shall be multiplied by a fraction, the numerator of which is the product of the factors, stated in the manner set forth in § 4022.23(b)(1), used to calculate the monthly maximum guaranteeable benefit under § 4022.22 and the denominator of which is the product of the factors used in the calculation under paragraph (c)(2)(i) of this section.

(2) Each benefit increase shall be treated separately for the purposes of

§ 4022.25, except as otherwise provided in paragraph (d) of that section, and for the purposes of § 4022.26, as appropriate.

(e) For the purposes of §§ 4022.22 through 4022.27, a benefit increase is deemed to be in effect commencing on the later of its adoption date or its effective date.

[61 FR 34028, July 1, 1996; 61 FR 36626, July 12, 1996, as amended at 62 FR 67728, Dec. 30, 1997]

EFFECTIVE DATE NOTE: At 76 FR 34603, June 14, 2011, § 4022.24 was amended by adding paragraph (f), effective July 14, 2011. For the convenience of the user, the added text is set forth as follows:

§ 4022.24 Benefit increases.

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(f) *PPA 2006 bankruptcy termination.* In a PPA 2006 bankruptcy termination, except as provided in the next sentence, “bankruptcy filing date” is substituted for “termination date” each place that “termination date” appears in paragraphs (a) and (c) of this section. In any case in which an event (such as the death of a participant or beneficiary who was alive on the bankruptcy filing date) that affects who is receiving or will receive a benefit from PBGC has occurred on or before the termination date, PBGC will compute the benefit based on the form of benefit that was being paid (or was payable) and the person who was receiving or was entitled to receive the benefit from PBGC as of the termination date, consistent with § 4022.23(g).

§ 4022.25 Five-year phase-in of benefit guarantee for participants other than substantial owners.

(a) *Scope.* This section applies to the guarantee of benefit increases which have been in effect for less than five years with respect to participants other than substantial owners.

(b) *Phase-in formula.* The amount of a benefit increase computed pursuant to § 4022.24 shall be guaranteed to the extent provided in the following formula: the number of years the benefit increase has been in effect, not to exceed five, multiplied by the greater of (1) 20 percent of the amount computed pursuant to § 4022.24; or (2) \$20 per month.

(c) *Computation of years.* In computing the number of years a benefit increase has been in effect, each complete 12-month period ending on or before the termination date during which such benefit increase was in effect constitutes one year.